

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT HUNTINGTON**

DIANNA ROUSH and
DAVID ROUSH,

Plaintiffs,

v.

Civil Action No. 3:13-cv-9058

ADVENTURE HOMES, LLC,
a foreign corporation, COZY HOME
CENTER, a foreign corporation, and
ROBERT A. JOHNSON, an individual,

Defendants.

NOTICE OF REMOVAL

NOW COMES the Defendant, Adventure Homes, LLC (hereinafter "Adventure Homes"), by and through its undersigned counsel, and gives notice that on the 25th day of April, 2013, Adventure Homes did remove a civil action pending in the Circuit Court of Mason County, West Virginia, styled "*Dianna Roush and David Roush, Plaintiffs v. Adventure Homes, LLC, a foreign corporation, Cozy Home Center, a foreign corporation, and Robert A. Johnson, an individual, Defendants,*" bearing Civil Action Number 13-C-47-N, to the United States District Court for the Southern District of West Virginia at Huntington. In accordance with the provisions of 28 U.S.C. § 1446 (2013), Adventure Homes states as follows:

1. Plaintiffs filed the above styled civil action in the Circuit Court of Mason County, West Virginia on or about March 19, 2013. A copy of the Complaint is attached hereto as **Exhibit A.**
2. Plaintiffs, in Paragraph 1 of their Complaint, allege violations of the West Virginia Consumer Credit and Protection Act ("WVCCPA") and the Uniform Commercial Code

(“UCC”), as well as raise common law theories of liability, arising out of the sale and installation of a manufactured home. Plaintiffs also request, in their Complaint, declaratory and injunctive relief, as well as monetary damages.

3. Plaintiffs are residents of the State of West Virginia. (*See* Exhibit A, ¶ 4.)

4. No Defendant is a resident of the State of West Virginia, with each Defendant residing, domiciled and/or incorporated in states other than West Virginia—namely, in the State of Indiana (Adventure Homes) and the State of Ohio (Robert A. Johnson, d/b/a Cozy Home Center¹).

5. Plaintiffs’ Complaint was served on the various Defendants on March 26, 2013.

6. This Notice of Removal is timely and is filed within thirty (30) days of receipt of the Summons and Complaint by Adventure Homes.

7. Although Plaintiffs make no specific monetary demand in their Complaint, the amount in controversy exceeds \$75,000.00 exclusive of interest and costs. In addition to alleged defects with the manufactured home, Plaintiff Dianna Roush claims she fell through the floor of the home and sustained injuries as a result. In a pre-suit demand letter sent by Plaintiffs’ counsel, Plaintiffs made a cash settlement demand of \$68,000.00, exclusive of past and future medical expenses related to Mrs. Roush’s alleged personal injury. Though discovery has not yet begun, it is anticipated that the medical expenses, which are now claimed in Plaintiffs’ Complaint, will be significant given the representations in Plaintiffs’ demand letter that Mrs. Roush was initially hospitalized for three days following the alleged incident, and that she has “continued to seek medical treatment for her severe back pain, including additional hospitalizations and referrals to several medical providers including a neurophysician and a pain

¹ Incorrectly named as “Cozy Home Center, a foreign corporation, and Robert A. Johnson, an individual” in the Complaint.

management specialist.” Plaintiffs also request punitive damages in their Complaint, among other relief.

8. Removal of this matter is predicated upon 28 U.S.C. § 1332 (2013) as the parties are completely diverse and the amount in controversy exceeds \$75,000.00 exclusive of interest and costs.

9. Attached to this Notice of Removal as **Exhibit B** is the docket sheet from the Circuit Court of Mason County, West Virginia.

10. With the exception of Plaintiffs’ First Set of Interrogatories, Request for Production of Documents and Things, and Request for Admissions to Defendants Adventure Homes, LLC and Cozy Home Center, served with the Complaint, no other documents or pleadings have been served on Adventure Homes. Certificates of Service for the foregoing discovery requests are attached hereto, collectively, as **Exhibit C**. Additionally, attached hereto as **Exhibit D** is a copy of the Answer and Affirmative Defenses of Defendant Adventure Homes, LLC to Plaintiffs’ Complaint, filed in the Circuit Court of Mason County, West Virginia on April 16, 2013.

11. The remaining Defendant, Robert A. Johnson d/b/a Cozy Home Center, by and through his counsel, consents to the removal of this action as evidenced by **Exhibit E** attached hereto.

WHEREFORE, Defendant Adventure Homes, LLC respectfully submits this Notice of Removal for the consideration of the Court herein and hereby gives notice to the Clerk of the Circuit Court of Mason County, West Virginia that Removal is hereby effected and that no further action by the Circuit Court shall take place unless this action be remanded by the United States District Court.

ADVENTURE HOMES, LLC

By Counsel,

s/Erin J. Webb

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CERTIFICATE OF SERVICE

I, **Erin J. Webb**, do hereby certify that on this the 25th day of April, 2013 I electronically filed the foregoing *Notice of Removal* and *Civil Cover Sheet* with the Clerk of the Court using the CM/ECF system and upon the following parties and individuals by mailing a true copy thereof by United States mail, postage prepaid, addressed as follows:

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Bill Withers, Clerk
Mason County Circuit Court
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s/Erin J. Webb

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